

**Iowa Department of Natural Resources
Natural Resource Commission**

ITEM

8

DECISION

TOPIC

Final Rule--Chapter 31, Publicly Owned Lakes

The Commission is requested to adopt a final rule to amend Chapter 31, Publicly Owned Lakes. This rule will update the Code of Iowa requirement that the “commission shall each year establish a priority list of watersheds which are of highest importance based on soil loss to be used for the allocation of moneys set aside in annual appropriations from the general fund to the department of agriculture and land stewardship for permanent soil conservation practices under chapter 161A on watersheds above publicly owned lakes”. In the current fiscal year, \$350,000 is available from the Department of Agriculture and Land Stewardship (IDALS) for these priority watersheds.

The current rule spells out a complex formula that includes four factors which are largely reliant upon the subjective judgment of the Department. The new rules will bring the selection process into conformity with the Department’s activities associated with lake restoration, impaired waters, and watershed improvement projects and simplify the process. The primary changes include:

- Soil and Water Conservation Districts will be asked to apply for funding;
-
- Watersheds of lakes that are on the priority list for lake restoration will be given additional consideration; and
- Watersheds of lakes that have a watershed plan focused upon sediment delivery issues will be given additional consideration.

The Department accepted comments through February 8, 2007, but received none.

The Department will utilize this rule for watershed selection in 2008 in order to deliver a list of priority lake watersheds to IDALS for funding to be made available in July 2008.

Ken Herring, Administrator
Conservation and Recreation Division
March 13, 2008

Attachment: Chapter 31 Final Rule

NATURAL RESOURCE COMMISSION [571]
Adopted and Filed

Pursuant to the authority of Iowa Code subsection 456A.33A, the Natural Resource Commission hereby amends Chapter 31, “Publicly Owned Lakes” of the Iowa Administrative Code.

This amendment brings the evaluation of proposals for this program into conformity with the Department’s activities associated with lake restoration, impaired waters, and watershed improvement projects; they also simplify the process for applicants.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 16, 2008 as ARC 6540B. No public hearing was requested and no comments were received.

This amendment is intended to implement Iowa Code chapters 456A.33A.

The amendment will become effective on May 14, 2008.

The following amendment is adopted:

ITEM 1. Rescind 571—Chapter 31 and adopt the following **new** chapter in lieu thereof:

CHAPTER 31
PUBLICLY OWNED LAKES PROGRAM

571—31.1(456A) Purpose. The purpose of this chapter is to set forth the policy and procedures to be utilized by the department of natural resources to establish and maintain a priority list of watersheds above publicly owned lakes and reservoirs where private landowners are eligible to receive cost sharing to provide state funding of up to 75 percent of the cost of approved permanent soil and water conservation practices from funds set aside in appropriations for the department of agriculture and land stewardship, division of soil conservation.

571—31.2(456A) Definitions.

“Commission” means natural resource commission.

“Department” means the department of natural resources.

“Priority list for lake restoration” means the list of lakes developed by the department based on feasibility for restoration funding pursuant to Iowa Code section 456A.33B.

“Program” means the publicly owned lakes program.

“Publicly owned lake” means any constructed or natural lake having a watershed acreage to lake surface area ratio of less than 80 to 1 and is owned by an Iowa state, county or municipal government.

“Sediment delivery calculator” means a formula for calculating the sediment delivery reduction from proposed or constructed best management practices by comparing known pre-construction rates of sediment delivery to proposed post-construction rates of sediment delivery based on models, as developed and maintained by the department.

“Soil and Water Conservation District” means a governmental subdivision of the state as set forth in Iowa Code section 161A.3.

“Watershed” means those lands that naturally drain into a publicly owned lake.

“Watershed planning protocol” means a planning process developed and published by the department to assist soil and water conservation districts to develop watershed plans and projects that will improve water quality in lakes and streams.

571—31.3(456A) Priority of Watersheds. The commission shall annually establish a priority list of watersheds above publicly owned lakes. This list shall take into account the priority list

for lake restoration so as best to protect and enhance fish and wildlife habitat, public recreation and the natural environment and the public's investment therein; and increase community commitment to watershed health, with the financial resources available.

571—31.4(456A) Application. To apply for the program, the following procedures and conditions shall be met:

31.4 (1) Eligible Applicant. An applicant must be a soil and water conservation district. Applications where a watershed is located in more than one county must be submitted jointly by all soil and water conservation districts occupied by that watershed.

31.4 (2) Application period. Applications shall be submitted annually in writing to the department of agriculture and land stewardship, division of soil conservation no later than April 1 and forwarded to the department by April 15 for eligibility beginning the following July 1 and ending the following June 30.

31.4 (3) Content of application. The following shall be included in the application:

- a. A map of the watershed identifying the sources of significant sediment delivery to the lake.
- b. Documentation of the existence of a watershed plan that targets significant sources of sediment delivery to the lake. All applications submitted after April 1, 2010 must include documentation of the existence of a watershed plan based on the watershed planning protocol.

31.4(4) Renewal application. Renewal applications must be submitted for continued program eligibility and must include the same information required by subrule 31.4(3). Renewal applications shall be submitted annually in writing to the department of agriculture and land stewardship, division of soil conservation no later than April 1 and forwarded to the department by April 15 for eligibility beginning the following July 1 and ending the following June 30. The renewal application must include a report of any changes to the watershed plan, the practices completed during the past period of program eligibility with estimates of the reduced delivery of eroded sediment using the sediment delivery calculator, and the projected practices planned to be completed during the following year. Renewal applications are not guaranteed funding and are subject to the review and approval of the department.

31.4(5) Newly constructed lakes. Applications may be submitted for watersheds of proposed publicly owned lakes, provided the publicly-owned lake is listed as a part of a priority watershed.

571—31.5(456A) Application review. Upon receipt, the department will review the applications based on compliance with application requirements; adequacy of watershed plans to reduce the delivery of sediment to the publicly owned lake, as demonstrated by using the sediment delivery calculator; presence on the priority list for lake restoration; and available funding.

571—31.7(456A) Commission approvals. All publicly owned lakes eligible under the program must be approved by the commission.

These rules are intended to implement Iowa Code section 456A.33A.

Date

Richard Leopold, Director